

**INITIAL STATEMENT OF REASONS
FOR PROPOSED BUILDING STANDARDS OF THE
OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT
REGARDING THE SENATE BILL 1801 MANDATE (STATUTES OF 2000, C.850) &
ASSEMBLY BILL 2194 MANDATE (STATUTES OF 2000, C.841),
ASSEMBLY BILL 444 (STATUTES OF 2001, C. 1022) &
ASSEMBLY BILL 832 MANDATE (STATUTES OF 2001, C.228)
CALIFORNIA CODE OF REGULATIONS, TITLE 24,
PART 1 (Building Standards Administrative Code),
REGULATIONS FOR SEISMIC EVALUATION OF HOSPITALS &
SAFETY STANDARDS FOR HEALTH FACILITIES**

The Administrative Procedure Act requires that an Initial Statement of Reasons be available to the public upon request when rulemaking action is being undertaken. The following are the reasons for proposing this particular rulemaking action:

ADOPTIONS, AMENDMENTS, OR REPEALS:

Section (number):

The following sections of the Building Standards Administrative Code and the California Building Code are being submitted to comply with the legislative intent of the Alfred E. Alquist Hospital Facilities Seismic Safety Act:

PART 1, Chapter 6

Article 1

Section 1.2 (Revised)
Section 1.3.1 (Revised)
Section 1.3.4 (Revised)
Section 1.4 (Revised)
Section 1.4.4.4 (Revised)
Section 1.4.5 (Revised)
Section 1.4.5.1.2 (New)
Section 1.4.5.1.3 (New)
Section 1.5.1 (Revised)
Section 1.5.2.1 (Revised)
Section 1.5.2.2 (Revised)
Section 1.5.2.4 (New)
Section 1.5.2.5 (New)
Section 1.5.2.6 (New)
Section 1.7 (Revised)

Article 11

Section 11.01.1 (Revised)

Article 11 (continued)

Section 11.01.3 (New)
Section 11.01.4 (New)
Section 11.1.1 (Revised)
Section 11.2 (Revised)
Section 11.2.1 (Revised)
Section 11.2.2 (Revised)
Section 11.2.3 (Revised)
Section 11.2.4 (Revised)

PART 1, Chapter 7

Section 7-113 (Revised)
Section 7-133 (Revised)

PART 2, Chapter 4

Section 420A.4.0 (Revised)
Section 420A.4.0.1 (New)
Section 420A.4.0.2 (New)

PART 2, Chapter 10

Section 1003.1.1 (New)

The purpose of this proposal is to submit regulation language that defines and clarifies the requirements for compliance with the California Building Standards Code.

The public problem, administrative requirement, or other condition or circumstance that the (adoption, amendment, or repeal) is intended to address, and the specific purpose and rationale for necessity of the (adoption, amendment, or repeal).

The passage of Senate Bill 1953 (SB 1953, Statutes of 1994, C. 740) authorized the Office of Statewide Health Planning and Development (Office) to develop regulations for the seismic retrofit of general acute care hospitals and for the nonstructural upgrade of critical care areas to bring these facilities into compliance with the post-1973 building standards. The law deemed these regulations to be an emergency and they were adopted as such. The purpose of SB 1953 is to ensure that by January 1, 2030 all licensed general acute care hospitals in California are compliant with the Alfred E. Alquist Hospital Facilities Seismic Safety Act (Alquist Act) and will be reasonably capable of providing services to the public after a seismic event.

The proposed regulation language is submitted to comply with the provisions of the four separate legislative acts (now statutory language). Principle among these changes is the procedure for requesting an extension to the January 1, 2008 seismic compliance deadline and the requirements for a nonstructural evaluation to a planned level of performance. The effect of the proposed regulation language constitutes revisions to

the Seismic Evaluation Procedure Regulations mandated by SB 1953. Additionally, changes to the California Building Code have been proposed to the egress, services/systems and utilities provisions as related to the structural upgrade provisions of SB 1953. The purpose of these regulations is to ensure that by January 1, 2030, all general acute care licensed hospitals in California are compliant with the Alfred E. Alquist Hospital Facilities Seismic Safety Act and will be reasonably capable of providing services to the public after a seismic event.

This regulation language is submitted under the auspices of Health and Safety Code Sections 130021 and 130063, which state that all submissions made by the Office pursuant to Articles 8 and 9 of the Alfred E. Alquist Hospital Facilities Seismic Safety Act shall be deemed an emergency and adopted as such.

PART 1, Chapter 6

Article 1

Section 1.2 DEFINITIONS

This section was revised by the addition of the terms “Functional Contiguous Grouping” and “Primary Source” to further clarify the provisions of Health and Safety Code Section 130060.

Section 1.3.1 Seismic Evaluation Submittal

This section was revised to incorporate the change in title to the Administrative Regulations, Section 7-113, “Application for Plan, Report or Seismic Compliance Extension Review”.

Section 1.3.4 Nonstructural Evaluation Report

This section was revised to incorporate the specific provisions of Health and Safety Code Section 130050 pertaining to the specific requirements for the content of nonstructural evaluations and the “planned level” of seismic performance. This section also stipulates requirements for future NPC upgrades or comprehensive nonstructural evaluations in the event of a sale or lease of the hospital property.

Section 1.4 Compliance Plans

This section was revised to incorporate the compliance extension date of January 1, 2013, a five-year extension to the January 1, 2008 compliance date for SPC-2 and NPC-3.

Section 1.4.4.4 Compliance Plan Schedule

This section was revised to incorporate the specific provision of Health and Safety Code Section 1276.05 regarding the interim and permanent relocation of acute care services.

Section 1.4.5 Compliance Plan Update/Change Notification

This section was revised to incorporate provisions of Health and Safety Code Sections

1276.05, 130050 and 130060 for amending a compliance plan either for extension of a seismic compliance deadline or a change to the seismic performance category.

Section 1.4.5.1.2

This section was revised to clarify the requirements for nonconforming hospital buildings removed from acute care service in lieu of seismic upgrade. Many hospitals may elect to remove a nonconforming hospital building from acute care service rather than seismically upgrade such buildings. These buildings could remain under OSHPD jurisdiction as licensed clinics (OSHPD 3) with non-acute hospital functions.

Section 1.4.5.1.3

This section was revised to clarify the requirements for hospital buildings removed from acute care service. At a later date, the hospital may choose to return these retired buildings to acute care service. This change clarifies that should the hospital ownership elect to return such a building to acute care service, the building must meet the Immediate Occupancy Performance Objective (SPC 5/NPC 4 or 5), not the minimum Life Safety Requirements (SPC 2/NPC 3) that might be in force had the building remained in acute care service.

Section 1.5.1 Compliance Deadlines

This section was revised to incorporate the specific provisions of Health and Safety Code Section 130060 to allow for a hospital to request a delay for SPC-2 requirements provided the conditions of Section 1.5.2 “Delay in Compliance”, are met.

Section 1.5.2 Delay in Compliance

This section was revised to incorporate the requirements of Health and Safety Code Section 130060. These provisions stipulate the requirements for an extension to seismic compliance based on diminished health care capacity and make specific the provisions of SB 1801(Statutes of 2000, C.850) regarding an extension of the January 1, 2008 seismic compliance deadline to January 1, 2013.

Section 1.7 Notification from OSHPD

This section was revised to incorporate the additional compliance date of January 1, 2013.

PART 1, Chapter 6

Article 11

Section 11.01.1

This section was revised to incorporate the amendments to Health and Safety Code Section 130050 that stipulate that a nonstructural evaluation may be limited to only the specific nonstructural systems and elements necessary for the planned NPC as specified in Table 11.1, “Nonstructural Performance Categories”.

Section 11.01.3

This section was added to incorporate the amended language to Health and Safety Code Section 130050 that stipulates that an additional nonstructural evaluation is necessary should a hospital owner choose to attain a higher (upgraded) NPC level.

Section 11.01.4

This section was added to incorporate the amended language to Health and Safety Code Section 130050 that stipulates that a complete nonstructural evaluation and list of all nonstructural deficiencies must be submitted to the Office prior to the sale or lease of the hospital to another party.

Section 11.2 Evaluation of Buildings

This section was revised to incorporate the amended language of Health and Safety Code Section 130050 which stipulates that a nonstructural evaluation may be limited to only the specific nonstructural systems and elements necessary for the planned NPC level as specified in Table 11.1, "Nonstructural Performance Categories".

PART 1, Chapter 7

Section 7-113 Application for Plan, Report or Seismic Compliance Extension Review

This section was revised to include specific language for submittal of an application for an extension or delay of seismic compliance timeframes.

Section 7-133 Fees

This section was revised to include specific language for submittal of fees for an amended compliance plan or seismic evaluation report or an application for extension or delay of seismic compliance timeframes.

PART 2, Chapter 4

Section 420A.4.0

The intent of the Alfred E. Alquist Hospital Facilities Seismic Safety Act of 1983 (Alquist Act) is that hospital buildings must be reasonably capable of providing services to the public after a disaster. In order to accomplish this goal, both the structural and nonstructural systems in the building must meet the immediate occupancy performance objective. In reality, most hospital buildings do not meet this objective. Of the 2507 hospital buildings reporting their likely seismic performance to OSHPD, only 1,286 have been constructed to modern seismic standards (post-1973 building standards). The remaining 1,221 buildings, constructed to earlier standards, may not be operational or repairable following strong ground shaking. In addition, the majority of the hospital buildings in the state do not meet the immediate occupancy nonstructural-bracing objective.

In 1994, Senate Bill 1953 (Chapter 740) was enacted. The objective of SB 1953 is to bring all hospital buildings into compliance with modern seismic standards by 2030. This is accomplished through a series of intermediate goals and milestones. In passing SB 1953, the legislature acknowledged that while many hospital buildings do not meet the immediate occupancy objective, they would remain in service for a fixed period of time, and then be upgraded, replaced, or retired.

Currently, Section 420A.4.0 requires that services/systems and utilities that are necessary for the operation of a hospital, skilled nursing facility, intermediate care facility, or correctional treatment center originate and pass through or under buildings that meet the structural requirements of the 1973 or later edition of the California Building Standards Code. This would include requirements for both the primary structure of the buildings, as well as anchorage and bracing of the systems/services and utilities. In essence, this restricts the structures in which services/systems and utilities may originate in or pass through to those built after 1973 under the Alquist Act (these are referred to as conforming buildings).

Remodel and alteration projects that use available existing services/systems and utilities are exempt from the requirements of Section 420A.4.0, and the Office may exempt minor additions. All other projects must comply, including significant additions, and any alterations, remodels, or other changes to a hospital building that require new or additional services/systems and utilities. In addition, any project that involves enhancements to existing services/systems and utilities (for example, adding heating or cooling capacity) triggers Section 420A.4.0.

Once triggered, Section 420A.4.0 currently requires that both the building in which the services/systems and utilities originate and all buildings in the path between the point of origin and the project area must either be conforming buildings, or be retrofitted to meet the structural requirements of the 1973 edition or later edition of the California Building Code. Current regulations only permit retrofit projects to the SPC-2 level (which does not meet structural requirements of the 1973 or later editions of the California Building Standards Code) or SPC-5 (the immediate occupancy performance category). Retrofits to intermediate performance levels (SPC-3 or SPC-4) are not permitted. In practice, this means that current regulations require that both the building in which the services/systems and utilities originate and all buildings in the path between the point of origin and the project area must be retrofitted to the SPC-5 level.

A further limitation of the current Section 420A.4.0 language is that it does not accurately reflect the level of nonstructural bracing present in conforming hospital buildings. Nonstructural bracing requirements have been part of the California Building Standards Code since 1973, but they were not rigorously enforced prior to 1982. Therefore, buildings constructed between 1973 and 1982, while deemed to comply with the 1973 or a later edition of the California Building Standards Code under the current Section 420A.4.0 language, may in fact not meet the Immediate Occupancy performance objective.

As amended, the requirements of Section 420A.4.0 will be triggered by any one of the following actions:

1. Construction of a new building.
2. Construction of significant additions, alterations, remodels, and repairs.
3. When buildings are removed from acute care service.

Minor addition, minor alteration, and minor remodel projects and projects to upgrade existing services/systems and utilities may be exempted from the requirements of Section 420A.4.0.

The proposed amendments to Section 420A.4.0 tie the structural requirements for services/systems and utilities to the expected seismic performance of the building where the additions, alterations, or remodels occur, as defined by their SPC and NPC ratings. For projects on conforming buildings, which must meet the immediate occupancy performance objective, services systems and utilities must originate in buildings that meet the SPC-3/NPC-4 performance objective. Services systems and utilities are permitted to pass through SPC-2 buildings (which may be damaged but are not expected to collapse in an earthquake), provided that nonstructural bracing requirements are met. Using these criteria, the goal of immediate occupancy can be achieved.

The requirements for pre-1973 (nonconforming) buildings are also tied to the expected seismic performance. Since these buildings, due to the nature of their construction, may not be functional or repairable following a strong earthquake, the requirements can be less conservative. The proposed language allows the required performance level for services/systems and utilities to meet the same performance requirements as the building meets. Forcing the services/systems and utilities to exceed the performance requirements of the target building does not provide any greater overall level of performance, and can dramatically increase costs.

Provisions are made for maintaining the path of services systems and utilities through buildings that are removed from acute care hospital service, provided the buildings remain under OSHPD jurisdiction and meet appropriate seismic performance requirements. This provides the facility with the flexibility to phase seismic upgrade and replacement projects.

The Alquist Act requires that all hospital buildings meet the immediate occupancy performance objective by 2030. This will require that services/systems and utilities originate in and pass through or under only conforming buildings. The proposed amendments include provisions covering the eventual removal of nonconforming buildings from acute care service.

The requirement that services/systems and utilities for new buildings and additions that are necessary for the operation of a skilled nursing facility, intermediate care facility, or correctional treatment center originate and pass through or under buildings that meet the structural requirements 1973 or later edition of the California Building Standards Code is left unchanged. Unlike general acute-care hospitals, there is no requirement that older buildings eventually be brought into conformance with modern seismic standards. Therefore, retaining the existing language is necessary to maintain the performance standards of the Alquist Act. An alternative, which will allow the use of the acute-care hospital requirements of 420A.4.0.1 is also added, and may be an attractive alternative when planning an addition. Provisions have also been added to permit alterations and remodels without triggering structural upgrades.

PART 2, Chapter 10

Section 1003.1.1 Means of Egress for Hospitals, Skilled Nursing Facilities and Intermediate Care Facilities.

California Building Code section 1001.1 defines a means of egress as “an exit system that provides a continuous, unobstructed and undiminished path of exit travel from any occupied point in a building or structure to a public way.” When this definition is read in context with the requirements of SB 1953, it is insufficient to address the many possible interpretations that arise. It is unclear if the terms “continuous, unobstructed and undiminished” are intended to apply to the potential collapse of the building or adjacent buildings through which the means of egress passes, or to obstructions caused by non-structural elements falling into the exit path.

The intent of the Alfred E. Alquist Hospital Seismic Safety Act is that hospital buildings must be reasonably capable of providing services to the public after a disaster. An essential part of providing service is the ability to obtain access to and egress from the building. Prior to the passage of SB 1953, the seismic condition and earthquake survivability of hospital buildings was largely unknown. SB 1953 required the evaluation and categorization of hospital buildings into various structural performance categories (SPC) and non-structural performance categories (NPC), based on the ability of the structure and its various components to withstand the forces of an earthquake. SB 1953 also requires that hospital buildings that are classified in the lower SPC and NPC categories be removed from acute care hospital service at specific dates.

SB 1953 requires that after the year 2030, all acute care hospital services shall be provided in “conforming” buildings, that is, buildings that conform to the latest seismic requirements for the building structure and anchorage of non-structural components. Non-conforming buildings must be structurally upgraded, or phased out of acute care service by 2008, 2013 or 2030.

When proposing remodels of or additions to hospital buildings, it is often necessary to pass through adjacent buildings, which may not be the same seismic performance

category as the building being remodeled. The performance categories of these adjacent buildings must be considered when designing additions or remodels to hospital buildings. Additions to SPC-1 buildings are not addressed in this section, because other sections of the code require SPC-1 buildings to be upgraded to a minimum of SPC-2, if additions are made to them.

These proposed regulations would permit egress through buildings that are the same or higher performance categories as the building being altered. This change is intended to accomplish several things. The first is to ensure that hospital buildings are provided with a path of egress travel that will not collapse and is free from obstructions caused by falling equipment or pipes. The proposed amendment allows additions to remodels of existing hospital buildings to egress through non-conforming buildings, provided that the building used for egress is not a lower SPC category than the building being altered, and a minimum level of anchorage of non-structural components is maintained. The exceptions in section 1003.1.1.1 require bracing of non-structural components in the path of egress only, rather than the entire building. Another purpose of the amendment is to clarify the requirements for egress through buildings that may be removed from acute care service. Finally, this proposal provides requirements for egress from skilled nursing and intermediate care facilities.

It is possible that the hospital may propose egress through a hospital building that does not require evaluation per SB 1953 (an acute psychiatric hospital, for example). In this case, this proposal would require evaluation of the building in accordance with the requirements of SB 1953, or require that it meet the requirements for a new hospital building.

A facility also may propose providing, or continuing to use, a means of egress that passes through a hospital building that has been removed from acute care service. In this case, the building must remain under the jurisdiction of OSHPD to ensure the continuity and integrity of the egress system for the acute care hospital building.

Skilled nursing (SNF) and intermediate care facilities (ICF) do not require evaluation per SB 1953, and therefore must be subject to different requirements from those of acute care hospitals. In order to ensure safe egress for these buildings, this proposal requires that new skilled nursing and intermediate care facilities and additions to existing facilities maintain means of egress through buildings that comply with the structural requirements of the 1973 or later edition of the California Building Code. Buildings that conform to these requirements were built under the provisions of the Alquist Act, and are generally regarded as "conforming" buildings.

The exception in section 1003.1.1.2 would permit SNFs and ICFs to meet the egress requirements for acute care hospitals in section 1003.1.1.1. This would allow egress through non-conforming buildings, if they are evaluated per the requirements of SB 1953.

AN IDENTIFICATION OF EACH TECHNICAL, THEORETICAL, AND EMPIRICAL STUDY, REPORT, OR SIMILAR DOCUMENT UPON WHICH THE AGENCY IS RELYING IN PROPOSING THE ADOPTION, AMENDMENT, OR REPEAL.

1. Office of Statewide Health Planning and Development, Policy Intent Notice #31 "Interim Work Progress Schedule" (March 1, 2001)
2. Office of Statewide Health Planning and Development, Code Application Notice No. 1-1.5.2 (March 2002)

ALTERNATIVES TO THE REGULATION

The Office considered no alternatives to Part 1 as the proposed language constitutes a clarification of the legislative intent to the SB 1801, AB 2194 and AB 832 mandated regulation language.

The Office considered an alternative for Part 2 to leave the regulations "as is" unacceptable, as current language would maintain design requirements that are more restrictive than needed to accomplish the performance objectives for hospitals in California.

ALTERNATIVES THE (AGENCY) HAS IDENTIFIED THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS.

No alternatives were considered by the Office, as the proposed language constitutes a clarification of the legislative intent to the mandated regulations language.

DUPLICATION OR CONFLICTS WITH FEDERAL REGULATIONS

The Office is not a department, board or commission within the Environmental Protection Agency, the Resources Agency, or the Office of the State Fire Marshal and therefore does not issue regulatory language that is conflicting or duplicative of Federal Regulations.

EFFECT ON PRIVATE PERSONS

No alternative considered by the agency would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

SPECIFIC TECHNOLOGY OR EQUIPMENT

Not Applicable